

ELECTRONICALLY FILED
February 13, 2007

1 STUTMAN, TREISTER & GLATT, P.C.
2 FRANK A. MEROLA
(CA State Bar No. 136934)
3 EVE H. KARASIK
(CA State Bar No. 155356)
4 ANDREW M. PARLEN
(CA State Bar No. 230429), Members of
1901 Avenue of the Stars, 12th Floor
5 Los Angeles, California 90067
Telephone: (310) 228-5600
6 Facsimile: (310) 228-5788
Email: fmerola@stutman.com
ekarasik@stutman.com
aparlen@stutman.com
7
8 Counsel for the Official Committee Of
9 Equity Security Holders Of USA Capital First Trust Deed Fund, LLC

SHEA & CARLYON, LTD.
JAMES PATRICK SHEA
(Nevada State Bar No. 000405)
CANDACE C. CARLYON
(Nevada State Bar No. 002666)
SHLOMO S. SHERMAN
(Nevada State Bar No. 009688)
228 South Fourth Street, First Floor
Las Vegas, Nevada 89101
Telephone: (702) 471-7432
Facsimile: (702) 471-7435
Email: jshea@sheacarlyon.com
ccarlyon@sheacarlyon.com
ssherman@sheacarlyon.com

10 UNITED STATES BANKRUPTCY COURT
11 DISTRICT OF NEVADA

12 In re: USA COMMERCIAL MORTGAGE COMPANY, Debtor.) BK-S-06-10725-LBR Chapter 11
13 In re: USA CAPITAL REALTY ADVISORS, LLC, Debtor.) BK-S-06-10726-LBR Chapter 11
14 In re: USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC, Debtor.) BK-S-06-10727-LBR Chapter 11
15 In re: USA CAPITAL FIRST TRUST DEED FUND, LLC, Debtor.) BK-S-06-10728-LBR Chapter 11
16 In re: USA SECURITIES, LLC, Debtor.) BK-S-06-10729-LBR Chapter 11
17 Affects <input type="checkbox"/> All Debtors <input type="checkbox"/> USA Commercial Mortgage Co. <input type="checkbox"/> USA Securities, LLC <input type="checkbox"/> USA Capital Realty Advisors, LLC <input type="checkbox"/> USA Capital Diversified Trust Deed <input checked="" type="checkbox"/> USA First Trust Deed Fund, LLC) Hearing Date: March 15, 2007 Time: 9:30 a.m. Place: Courtroom #1

23
24 NOTICE OF FILING AND HEARING RE EIGHTH OMNIBUS OBJECTION OF THE
25 OFFICIAL COMMITTEE OF EQUITY SECURITY HOLDERS OF USA CAPITAL FIRST
26 TRUST DEED FUND, LLC – PROOFS OF CLAIM AND PROOFS OF INTEREST FILED BY
27 MEMBERS OF USA CAPITAL FIRST TRUST DEED FUND, LLC WHO FILED BOTH
28 PROOFS OF CLAIM AND PROOFS OF INTEREST (BERNARD WHITE; BILL MCHUGH
POA FOR HARRY MCHUGH REVOCABLE TRUST; FIRST SAVINGS BANK C/F GAIL
HODES, IRA; FISERV TRUST COMPANY TTEE FBO EDWARD L. FELMAN IRA
06000071575; JEAN-JACQUES LEBLANC; JOAN LEBLANC; JOHN E BROWN & SANDRA L
BROWN; OVCA ASSOCIATES INC DEFINED PENSION PLAN C/O WILLIAM J OVCA JR
TRUSTEE; PETER M DIGRAZIA DMD PSP; ROBERT WOODS; AND SIBRAVA-RAPP
TRUST 1-02-07) (AFFECTS DEBTOR USA CAPITAL FIRST TRUST DEED FUND, LLC)

1 **TO: BERNARD WHITE**
2 **BILL MCHUGH (on account of proofs of claim and interest filed by BILL MCHUGH**
3 **POA FOR HARRY MCHUGH REVOCABLE TRUST)**
4 **EDWARD FELMAN (on account of proofs of claim and interest filed by**
5 **FISERV TRUST COMPANY TTEE FBO EDWARD L. FELMAN IRA**
6 **060000071575)**
7 **FIRST SAVINGS BANK (on account of proofs of claim and interest filed by FIRST**
8 **SAVINGS BANK C/F FAIL HODES, IRA)**
9 **FISERV TRUST COMPANY (on account of proofs of claim and interest filed by**
10 **FISERV TRUST COMPANY TTEE FBO EDWARD L. FELMAN IRA**
11 **060000071575)**
12 **GAIL HODES (on account of proofs of claim and interest filed by FIRST SAVINGS**
13 **BANK C/F FAIL HODES, IRA)**
14 **JEAN-JACQUES LEBLANC**
15 **JOAN LEBLANC**
16 **JOAN SIBRAVA (on account of proofs of claim and interest filed by SIBRAVA-**
17 **RAPP TRUST 1-02-97)**
18 **JOHN E & SANDRA L BROWN**
19 **PETER M DIGRAZIA (on account of proofs of claim and interest filed by PETER M**
20 **DIGRAZIA DMD PSP)**
21 **ROBERT WOODS**
22 **WILLIAM J. OVCA (on account of proofs of claim and interest filed by OVCA**
23 **ASSOCIATES INC DEFINED PENSION PLAN C/O WILLIAM J OVCA JR**
24 **TRUSTEE)**
25 **USA CAPITAL FIRST TRUST DEED FUND, LLC**
26 **U.S. TRUSTEE**
27 **ALL PARTIES IN INTEREST**

17
18 **PLEASE TAKE NOTICE** that on February 13, 2007, the "Eighth Omnibus
19 **Objection Of The Official Committee Of Equity Security Holders Of USA Capital First**
20 **Trust Deed Fund, LLC – Proofs Of Claim And Proofs Of Interest Filed By Members Of**
21 **USA Capital First Trust Deed Fund, LLC Who Filed Both Proofs Of Claim And Proofs Of**
22 **Interest" (the "Objection") was filed by the Official Committee of Equity Security Holders of**
23 **USA Capital First Trust Deed Fund, LLC (the "FTDF Committee"). The Objection has been**
24 **filed to reconcile various claims and equity interests asserted in USA Capital First Trust**
25 **Deed Fund, LLC (the "FTDF") with the books and records of the FTDF. You should read**
26 **it. You filed a proof of claim(s) and proof of interest that asserts an equity interest that is**
27 **different than your equity interest as of the date the FTDF filed its chapter 11 bankruptcy**
28 **petition (the "Petition Date") as shown in the books and records of FTDF.**

Pursuant to the Objection, the FTDF Committee objects to (a) the proofs of claim

1 referenced therein (the "Claims on Equity Interest") filed by members of the FTDF ("FTDF
 2 Members") on the grounds that they are duplicative of proofs of interest filed by such FTDF
 3 Members, and (b) proofs of interest referenced therein (the "Subject Interests") on the grounds that
 4 they do not assert the correct amount of the equity security interests held by each respective FTDF
 5 Member in the FTDF as of the date the FTDF filed its chapter 11 bankruptcy petition (the "Petition
 6 Date). By the Objection, the FTDF Committee requests that (a) the Claims on Equity Interests be
 7 disallowed and expunged in full and (b) the Subject Interests be disallowed to the extent they
 8 assert amounts in excess of each respective FTDF Member's equity interest in the FTDF as of the
 9 Petition Date as reflected in the Debtors' books and records. By the Objection, the FTDF
 10 Committee does not seek to prejudice the rights of any FTDF Member who filed a Claim on
 11 Equity Interest or Subject Interest to recover from the FTDF estate on account of his or her
 12 membership interest in the FTDF. A detailed list of all of the Claims on Equity Interests and
 13 Subject Interests and the relief sought with respect to each Claim on Equity Interest and Subject
 14 Interest is set forth on Exhibit "1" to the Objection. The Claims on Equity Interests and the
 15 Subject Interests and the requested treatment of such claims and interests by the FTDF Committee
 16 are as follows:

FTDF Member Who Filed Both a Proof of Claim and a Proof of Interest	Acct. ID #	Proof of Claim No(s.)	Claim Amount	Proof of Interest No.	Proof of Interest Amount	Amount of Equity Interest Per Debtors' Records	Proposed Disposition
Bernard White	4827	66	\$56,040.00	21	\$56,040.00	\$54,484.50	Disallow claim as duplicative of filed proof of interest. Allow proof of interest in the amount of \$54,484.50, and disallow proof of interest to the extent it exceeds \$54,484.50 because the amount asserted in excess of \$54,484.50 is on account of an investment unrelated to the USA Capital bankruptcy cases.

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	FTDF Member Who Filed Both a Proof of Claim and a Proof of Interest	Acct. ID #	Proof of Claim No(s.)	Claim Amount	Proof of Interest No.	Proof of Interest Amount	Amount of Equity Interest Per Debtors' Records	Proposed Disposition
	Bill McHugh POA for Harry McHugh Revocable Trust	10349	73	\$30,000.00	31	\$30,000.00	\$30,000.00	Disallow claim as duplicative of filed proof of interest. Allow proof of interest.
	First Savings Bank C/F Gail Hodes, IRA	1671	97 and 137	Claim no. 97: \$35,143.89 plus unliquidated amount Claim no. 137: see attachment to claim	38	\$35,143.89 plus unliquidated damages	\$33,792.00	Disallow both claims as duplicative of the proof of interest to the extent they are on account of investments made by the Claimant in the FTDF. Disallow the claims to the extent they (i) allege that the FTDF has tort or contractual liability to the Claimant and (ii) allege the Claimant is entitled to anticipated but unpaid postpetition dividends. Allow the proof of interest in the amount of \$33,792.00, and disallow the proof of interest to the extent it exceeds \$33,792.00, as amounts asserted in excess of such amount are on account of (i) tort/contract claims for which the FTDF has no liability and (ii) anticipated but unpaid postpetition dividends.
	Fiserv Trust Company Ttee FBO Edward L. Felman IRA 06000007 1575	10105	98	\$50,416.50	36	\$50,416.50	\$50,416.50	Disallow claim as duplicative of filed proof of interest. Allow proof of interest.
	Jean-Jacques LeBlanc	7627	103	\$21,459.50	51	\$21,459.50	\$21,459.50	Disallow claim as duplicative of filed proof of interest. Allow proof of interest.

1 FTDF Member Who Filed Both a Proof of Claim and a Proof of Interest	2 Acct. ID #	3 Proof of Claim No(s.)	4 Claim Amount	5 Proof of Interest No.	6 Proof of Interest Amount	7 Amount of Equity Interest Per Debtors' Records	8 Proposed Disposition
Jean-Jacques LeBlanc	8305	104	\$50,000.00	54	\$50,000.00	\$50,000.00	Disallow claim as duplicative of filed proof of interest. Allow proof of interest.
Joan LeBlanc	8516	105	\$15,982.50	50	\$15,982.50	\$15,982.50	Disallow claim as duplicative of filed proof of interest. Allow proof of interest.
Joan LeBlanc	8505	107	\$15,982.50	49	\$15,982.50	\$15,982.50	Disallow claim as duplicative of filed proof of interest. Allow proof of interest.
John E Brown Jr and Sandra L Brown	2071	102 and 112	Claim no. 102: \$10,000.00 Claim no. 112: \$10,000.00	55	\$10,000.00	\$10,000.00	Disallow both claims as duplicative of filed proof of interest. Allow proof of interest.
OVCA Associates Inc Defined Pension Plan C/O William J Ovca Jr Trustee	1016	96 and 136	Claim no. 96: \$17,957.79 plus unliquidated amount Claim no. 136: see attachment to claim	37	\$17,957.79 plus unliquidated damages	\$17,267.00	Disallow both claims as duplicative of the proof of interest to the extent they are on account of investments made by the Claimant in the FTDF. Disallow the claims to the extent they (i) allege that the FTDF has tort or contractual liability to the Claimant and (ii) allege the Claimant is entitled to anticipated but unpaid postpetition dividends. Allow the proof of interest in the amount of \$17,267.00, and disallow the proof of interest to the extent it exceeds \$17,267.00, as amounts asserted in excess of such amount are on account of (i) tort/contract claims for which the FTDF has no liability and (ii) anticipated but unpaid postpetition dividends.

1 FTDF Member Who Filed Both a Proof of Claim and a Proof of Interest	2 Acct. ID #	3 Proof of Claim No(s.)	4 Claim Amount	5 Proof of Interest No.	6 Proof of Interest Amount	7 Amount of Equity Interest Per Debtors' Records	8 Proposed Disposition
Peter M. DiGrazia DMD PSP	7353	34 and 64	Claim no. 34: \$15,625.00 Claim no. 64: \$15,625.00	60	\$15,750.00	\$15,000.00	Disallow both claims as duplicative of filed proof of interest. Allow proof of interest in the amount of \$15,000.00, and disallow proof of interest to the extent it exceeds \$15,000.00 because amount asserted in excess of \$15,000.00 is on account of anticipated but unpaid postpetition dividends.
Robert Woods	1462	99	\$10,000.00 plus interest	41	\$11,884.50	\$11,884.50	Disallow claim as duplicative of filed proof of interest. Allow proof of interest.
Sibrava- Rapp Trust 1- 02-97	10638	65	No amount stated	14	\$30,000.00	\$30,000.00	Disallow claim as duplicative of filed proof of interest. Allow proof of interest.

17 **PLEASE TAKE FURTHER NOTICE** that the hearing on the Objection will be
 18 held before the Honorable Linda B. Riegle, United States Bankruptcy Judge, in the Foley Federal
 19 Building, 300 Las Vegas Boulevard South, Courtroom 1, Las Vegas, Nevada, on **March 15,**
 20 **2007, at the hour of 9:30 a.m.**

21 **PLEASE TAKE FURTHER NOTICE** that this hearing may be continued from
 22 time to time without further notice except for the announcement of any adjourned dates and time
 23 at the above noticed hearing or any adjournment thereof.

24 **PLEASE TAKE FURTHER NOTICE** that any response to the Objection must
 25 be filed by **March 8, 2007** pursuant to Local Rule 3007(b), which states:

26 If an objection to a claim is opposed, a written response must be
 27 filed and served on the objecting party at least 5 business days
 28 before the scheduled hearing. A response is deemed sufficient if it
 states that written documentation in support of the proof of claim
 has already been provided to the objecting party and that the

1 documentation will be provided at any evidentiary hearing or trial
2 on the matter.

3 If you object to the relief requested, you *must* file a **WRITTEN** response to this
4 pleading with the court. You *must* also serve your written response on the person who sent you
5 this notice.

6 If you do not file a written response with the court, or if you do not serve your
7 written response on the person who sent you this notice, then:

8 ! The court may *refuse to allow you to speak* at the scheduled hearing; and
9 ! The court may *rule against you* without formally calling the matter at the
10 hearing.

11
12 DATED: February 13, 2007

/s/ Andrew M. Parlen

13 Andrew M. Parlen, Esq.
14 Stutman, Treister & Glatt
15 Professional Corporation
16 Counsel to the Official Committee of Equity
17 Security Holders of USA Capital First Trust
18 Deed Fund, LLC